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February 8, 2025

VIA ECF

United States District Court
Eastern District of New York
Attn: Hon. Hector Gonzalez, U.S.D.J.
225 Cadman Plaza East
Courtroom 6A South
Brooklyn, NY 11201-1804

Re: Ortega v. Champagne Room BK, Inc., et al.
Case No.: 1:21-cv-1125 (NGG) (CLP)

Dear Judge Gonzalez:

This office represents the Plaintiff Iuminada Ortega (hereinafter the “Plaintiff”) in the above referenced case. Plaintiff writes in response to this Court’s Orders dated January 30, 2025 and February 7, 2025 to explain whether she intends to proceed with her claims against Defendant Sarkis Avoyants (“Avoyants”) and her efforts to serve the Fourth Amended Complaint (“FAC”) and a summons on Avoyants.

Plaintiff hereby respectfully confirms that she intends on proceeding with her claims against Avoyants. Given that she has reached a settlement with all the other Defendants, and Avoyants is the sole remaining Defendant, Plaintiff’s FAC is a testament to this fact.

Plaintiff submitted an email containing the fourth amended complaint to Avoyants and remaining counsel on August 31, 2024. Given that Avoyants was previously served and previously appeared for one conference, Plaintiff expected him to appear. See ECF Docket Entry [59](#); see also modified minute entry dated June 12, 2023 (noting Avoyants’ *pro se* appearance). Since Avoyants has already been served and has already appeared, according to the Federal Rules of Civil Procedure (hereinafter referred to as “Rules” or “Rule”), the only service required is the mailing of the FAC to Avoyants’ last known address. See Fed. R. Civ. P. 5(a)(1)(B) (requiring a pleading filed after the original complaint to be served) and 5(b)(2)(C) (permitting service by mail to the last known address of the party).

Thus, Plaintiff only sought to obtain a summons solely to comply with this Court’s January 30, 2025 Order and Plaintiff will easily be able to meet the February 26, 2025 deadline to serve Avoyants in accordance with Rule 5.

Plaintiff will address the Court’s observations concerning her alleged lack of diligence in its forthcoming response to its Order to show cause as to why your undersigned should not be sanctioned in accordance with the Court’s February 7, 2025 Order.

Plaintiff thanks this honorable Court for its time and attention to this case.

Dated: Jamaica, New York
February 8, 2025

Respectfully submitted,

SAGE LEGAL LLC

/s/ Emanuel Kataev, Esq.

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VIA ECF

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VIA ECF

All counsel of record